IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 5103 of 2005(G)

OS.1633/1996 of III ADDL. M.C.,THRISSUR

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PETITIONERS:

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1. BHOOMI ENTERPRISES,
KUNNAMKULAM VILLAGE, THRISSUR DIST.,
REP. BY PARTNER RAJU PAUL, S/O.CHEERAN PAUL,
CHIRALAYAM, KUNNAMKULAM, THRISSUR DIST.

2. BHOOMI SYNDICATE, KUNNAMKULAM VILLAGE,
THRISSUR DIST., REP. BY MG.PARTNER,
SATHYANATHAN, S/O.RAMAN NAIR,
`RAMYA', KADAVALLUR, THRISSUR DIST.

BY ADV. SRI.M.K.DILEEP KUMAR

RESPONDENT:

SASEENDRAN, ALIAS SASIKUMAR,
S/O.GOVINDAN, CHEMBALIPURATH HOUSE,
KODANNUR VILLAGE, THRISSUR DIST.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.5103 OF 2005

APPENDIX

PETITIONERS' EXTS:

EXT.P1 – TRUE COPY OF I.A.11118/04 DT.6.12.04 FILED BY RESPONDENT, SEEKING AMENDMENT OF THE PLAINT.

EXT.P2 – TRUE COPY OF COUNTER FILED BY PETITIONERS AGAINST EXT.P1

EXT.P3 – TRUE COPY OF ORDER IN I.A.11118/04 DT.20.12.04 OF III ADDL. MUNSIFF'S COURT, THRISSUR.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.5103 OF 2005

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DATED THIS THE 15TH JUNE, 2007

J U D G M E N T

Heard Sri.M.K.Dileepkumar, learned counsel for the petitioners and Sri.G.Sreekumar, learned counsel for the respondent.

2. Mr.Sreekumar submitted that since there was no stay, the suit was proceeded with and on finding that the Munsiff's Court does not have pecuniary jurisdiction, the plaint was returned for presentation before the Sub Court and it was presented before that Court.

3. The above submission notwithstanding, I am of the view that it is to be clarified that the amendment which has been allowed under Ext.P3 will have only prospective effect, i.e., the amendment will be effective only from the date of the application for amendment. The amendment will not enable the respondent-plaintiff to get away from the bar of limitation, if, as a matter of fact, such a bar has already set in. If plea of limitation has been raised by the petitioners in the additional written statement said to have been filed by them already, the learned Sub Judge will raise an issue regarding limitation and will take a decision on the issue after hearing both sides and considering

the various judicial precedents which may be cited at the Bar by counsel on either sides.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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